THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.5911 of 2007

Date:23.03.2007

Between:

Sri Tirumala Modern Rice Mill.

.. PETITIONER

AND

Transmission Corporation of A.P. Ltd. and another.

..RESPONDENTS

ORDER:

The petitioner Rice Mill is connected with power supply under Category-III *vide* service connection No.7335 at Old Mancherial, Adilabad District. The premises were inspected on 28.09.2006 and it was found that the C.T.Chamber seal was tampered. The loss of revenue to the respondents was assessed at Rs.5,64,429/-. A notice of provisional assessment was issued on 05.10.2006 giving option to the petitioner to pay 50% of the said amount, if it wants continuance of the power supply. The petitioner paid a sum of Rs.2,82,340/- on 12.10.2006 and the power supply had been continued. At the instance of the respondents, F.I.R.No.891 of 2006 was registered by the Vigilance Department. The petitioner paid a sum of Rs.3,10,000/- as compounding fee and the criminal case was withdrawn on 30.10.2006. The grievance of the petitioner is that the respondents are now insisting on payment of the balance amount covered by the notice of provisional assessment. It is stated that an order of final assessment is yet to be passed and the respondents cannot demand the balance.

Heard the learned counsel for the petitioner and the learned

standing counsel for the respondents.

Wherever the respondents noticed any acts of pilferage or malpractices, the actual liability of the consumer in terms of money would emerge only when an order of final assessment is passed. The petitioner was issued a notice of provisional assessment and to ensure continuity of supply, it has already paid 50% of the amount. If it is insisted to pay the balance, it amounts to the notice of provisional assessment being treated as an order of final assessment. Such a course is impermissible in law.

For the foregoing reasons, the writ petition is disposed of, directing that the respondents shall not insist on the petitioner to pay the balance amount indicated in the notice of provisional assessment till an order of final assessment is passed by the competent authority. It shall be open to the petitioner to file its objections/representation before the concerned authority, within a period of two weeks from today. There shall be no order as to costs.

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23.03.2007

Note: Issue operative portion
by wire at party's costs.

(B/o)

kdl